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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,626	04/14/2004	Alan Gin	1875.4090001/TAW	4639
26111 7590 05/12/2008 STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C. 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005				
EXAMINER JACKSON, BLANE J				
ART UNIT		PAPER NUMBER		
2618				
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05/12/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/823,626

Applicant(s)

GIN ET AL.

Examiner

Blane J. Jackson

Art Unit

2618

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-10, 14 and 15 is/are rejected.
- 7) ☒ Claim(s) 4, 5 and 11-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

The Information Disclosure Statement filed 09 May 2005 is made of record.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 6-10, 14 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Lin et al. (US 2004/0105403).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

As to claims 1 and 8, Lin teaches an apparatus and method for transmitting moving pictures experts group (MPEG) frames between a data over cable services interface specification (DOCSIS) based satellite modem termination system (SMTS)

and a corresponding satellite modem (SM) system (figures 1-3, paragraphs 0031-0034), the method comprising:

identifying at least one data stream requiring transmission between the SMTS and the SM, the data stream including one or more MPEG frames (figure 4a, paragraph 0035, downstream data transmission from the satellite earth station via satellite to the individual satellite modem (SM) where transmit packet data arrives at the SMTS via an Ethernet port),

organizing the MPEG frames within SMTS data queues in accordance with predetermined parameters (figure 13, paragraphs 0035, 0045, the MAC encrypts the data as necessary and frames the data in MAC headers and inserts MAC timestamps in the transmit stream, the data stream is encapsulated in MPEG frames; paragraphs 0112 and 0113, data from each queue is transmitted using different modulation and coding depending on the reception capabilities of the receiver),

and transmitting the MPEG frames based upon their organization within the data queues (figure 13, paragraphs 0113 and 0114, the downstream data is composed of map messages and superframes, each superframe is composed of queue blocks, each queue block is *data taken from a given queue* and transmitted using the modulation and code rate selected for that particular queue.

As to claims 2 and 9 with respect to claims 1 and 8, Lin teaches associating the transmitted frames with the predetermined parameters (paragraph 0112, data from each queue intended for receivers with a high SNR is transmitted with a higher modulation and code rate).

As to claims 3 and 10 with respect to claims 1 and 8 Lin teaches the organizing includes processing the data queues based upon predetermined priorities (paragraphs 0032 and 0112, the modulation and code rate is selected based on the SNR required by each satellite modem and datatypes on a prioritized basis).

As to claims 6 and 14 with respect to claims 1 and 8, Lin teaches the predetermined parameters include at least one from the group including forward error correction rate, modulation type, and signal to noise ratio (paragraphs 0112 and 0060, signal quality measurements such as the SNR).

As to claims 7 and 15 with respect to claims 6 and 14, Lin teaches the predetermined parameters are associated with downlink transmissions (figures 1, 3, 4a and 8, paragraphs 0034-0035 and 0068-0070, downstream data from the SMTS to the SM).

Allowable Subject Matter

Claims 4, 5, 11, 12 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As to claims 4 and 11, the prior art made of record is silent to organizing the predetermined priorities based on a highest/ lowest rate order or priority order.

As to claims 5, 12 and 13, the prior art made of record teaches organizing the data queues based upon priorities but is silent as to organizing on destination address to queue mapping.

Conclusion

The prior art made of record and not relied upon but considered pertinent to applicant's disclosure includes Chandran et al. (US 7,012,891).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blane J. Jackson whose telephone number is (571) 272-7890. The examiner can normally be reached on Monday through Thursday, 8:30 AM-7:00 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban can be reached on (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Blane J Jackson/
Primary Examiner, Art Unit 2618